

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Priority Mail  
Priority Mail Contract 58

Docket No. MC2013-47

Competitive Product Prices  
Priority Mail Contract 58 (MC2013-47)  
Negotiated Service Agreement

Docket No. CP2013-61

PUBLIC REPRESENTATIVE COMMENTS ON  
POSTAL SERVICE REQUEST TO ADD  
PRIORITY MAIL CONTRACT 58 TO  
COMPETITIVE PRODUCT LIST

(May 6, 2013)

The Commission issued Order No. 1707 to receive comments on a Postal Service Request to add Priority Mail Contract 58 to the competitive product list.<sup>1 2</sup> The Postal Service's Request includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a), and a copy of the Certification of Governors' Vote in the Governor's Decision No. 11-6 dated March 22, 2011. The proposed new product contract and supporting financial data were filed under seal.

The Postal Service states that Priority Mail Contract 58 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. It also asserts that the prices and classification underlying the instant contract are supported by Governors' Decision No. 11-6.<sup>3</sup>

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<sup>1</sup> Request of the United States Postal Service to Add Priority Mail Contract 58 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, April 29, 2013 (Request).

<sup>2</sup> PRC Order No. 1707, Notice and Order Concerning the Addition of Priority Mail Contract 58 to the Competitive Product List, April 30, 2013.

<sup>3</sup> Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Domestic Competitive Agreements, Outbound International Competitive Agreements,

The instant contract will be effective the day following the date on which the Commission issues all necessary regulatory approvals. Attachment B at 2. The contract is scheduled to expire three years from the effective date unless either party terminates the contract on 30 days' prior written notification. *Id.* at 3.

## COMMENTS

The purpose of a Negotiated Service Agreement (NSA) is to increase mail volume and revenue in exchange for which the mailer receives discounted rates. The statute stipulates that such agreements better the Postal Service's net financial position or mail processing functions and do not cause unreasonable harm to the marketplace. 39 U.S.C. §3622 (c)(10). In addition, for competitive products, revenue must exceed attributable costs. 39 U.S.C. § 3633(a).

Based on the financial data filed by the Postal Service the contract appears to meet the requirements of 39 U.S.C 3633(a) during the first contract year. No financial data has been provided by the Postal Service to conclude that the contract will meet the requirements of 39 U.S.C. 3633(a) in following years. The contract terms include an adjustment of prices periodically. The inclusion of these terms may aid in compliance with the requirements of 39 U.S.C. 3633(a) over the lifetime of the contract.

The Public Representative notes that inflation as projected in the financial worksheets filed with the Postal Service Request is expected to increase over the next few years and urges the Commission to evaluate closely the revenue adjustments specified in the contract to ensure continued compliance with the requirements of 39 U.S.C. 3633(a).

The Public Representative is mindful that the Postal Service must report data relating to NSA's annually to the Commission to ensure compliance with statutory requirements.

Data filed in FY 2012 Annual Compliance Report regarding Priority Mail contracts indicated that the contracts have provided additional volume and reasonable contribution to the institutional costs of the Postal Service. Information filed with the instant contract was not sufficient to determine an increase in revenue and volume as a direct result of the discounted rates. There was no information provided to ascertain whether the mailer would have increased its mailing volume without the reduced rates.

Based upon review of the instant contract, the Statement of Supporting Justification, and the financial data and model filed under seal, the Public Representative concludes that Priority Mail Contract 58 should be categorized as a competitive product and added to the competitive product list.

The Public Representative respectfully submits the preceding Comments for the Commission's consideration.

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Cassie D'Souza  
Public Representative

901 New York Ave. NW  
Washington, DC 20268-0001  
202-789-6815  
cassie.dsouza@prc.gov